STATE OF MICHIGAN

COURT OF APPEALS

ALLEN KENNETH MARSH,

Plaintiff-Appellant,

v

MAKEM GOLF ENTERPRISES, INC., d/b/a TAWAS CREEK GOLF CLUB,

Defendant-Appellee.

UNPUBLISHED
May 4, 2001

No. 221504
Iosco Circuit Court
LC No. 98-001277-NO

Before: Doctoroff, P.J., and Cavanagh and Meter, JJ.

PER CURIAM.

Plaintiff appeals by right from an order granting summary disposition to defendant under MCR 2.116(C)(10)[1] in this premises liability action. The claim arose when plaintiff slipped and fell on steps connected to defendant's pro golf shop; plaintiff alleged that the steps were covered by a wet, worn, bubbled, slippery, rubberized material. We affirm.

Plaintiff argues that the trial court applied an inappropriate standard of review under MCR 2.116(C)(10). However, plaintiff does not develop a logical argument regarding how the trial court erred with regard to the standard of review. A party may not merely announce a position and leave it up to this Court to discover and rationalize the basis for his claims. *Palo Group Foster Care, Inc v Dep't of Social Services*, 228 Mich App 140, 152; 577 NW2d 200 (1998). Moreover, we find no error in the court's review. In deciding a motion under MCR 2.116(C)(10), the trial court must consider the affidavits, pleadings, depositions, admissions, and other documentary evidence in the light most favorable to the nonmoving party to determine whether a genuine issue of any material fact exists to warrant a trial. MCR 2.116(G)(4); *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). In *Smith v Globe Life*

[1] Defendant moved for summary disposition under MCR 2.116(C)(8) and (10), and the trial court did not indicate on which rule it relied in granting the motion. However, because the court looked beyond the pleadings in granting the motion, we will treat the motion as granted under MCR 2.116(C)(10). See *Sharp v City of Lansing*, 238 Mich App 515, 518; 606 NW2d 424 (1999).

Insurance Co, 460 Mich 446, 455 n 2; 597 NW2d 28 (1999), our Supreme Court further clarified the proper standard under 2.116(C)(10):

> Under MCR 2.116(C)(10), it is no longer sufficient for plaintiffs to *promise* to offer factual support for their claims at trial. . . . [A] party faced with a motion for summary disposition brought under MCR 2.116(C)(10) is, in responding to the motion, required to present evidentiary proofs creating a genuine issue of material fact for trial. Otherwise, summary disposition is properly granted. [Emphasis in original.]

Here, the trial court reviewed the documentary evidence and concluded that plaintiff had failed to establish a genuine issue of material fact sufficient to withstand defendant's motion for summary disposition. The trial court applied the appropriate standard under MCR 2.116(C)(10) and controlling precedent.

Plaintiff next argues that the trial court erred in granting defendant's motion because the steps on which he fell presented an unreasonable risk of danger despite the open and obvious nature of the conditions. This Court reviews de novo a trial court's decision to grant summary disposition. *Ritchie-Gamester v City of Berkley*, 461 Mich 73, 76-77; 597 NW2d 517, 519 (1999).

Having reviewed the record, including the documentary and photographic evidence submitted, we disagree that the trial court erred in granting defendant summary disposition. As stated in *Bertrand v Allen Ford, Inc*, 449 Mich 606, 614; 537 NW2d 185 (1995), "[S]teps . . . [are] not ordinarily actionable *unless* unique circumstances surrounding the area in issue made the situation unreasonably dangerous" (emphasis in original). In other words, if the danger posed by a set of steps is unreasonable *despite* the open and obvious nature of the danger, then the danger is actionable. In *Hottman v Hottman*, 226 Mich App 171, 176; 572 NW2d 259 (1997), this Court framed this type of inquiry as whether "the risk of falling is . . . eliminated by awareness of the hazard." Here, the risk of falling would indeed be eliminated by awareness of the hazard. Indeed, a reasonably prudent person, seeing steps covered with a wet, worn, bubbled, rubberized material, would walk carefully and use the handrail so as to avoid falling. We note that there were no allegations in this case that the steps were unreasonably narrow, that the pedestrian traffic was unduly heavy, or that the handrail was defective. The condition of the steps here was simply not so extraordinary so as to impose an unreasonable risk of falling. *Bertrand, supra* at 614.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Mark J. Cavanagh
/s/ Patrick M. Meter